

# **ATTACHMENT A**

# Professor Michael R. Baye Professor of Business Economics

*Kraft Foods Global, Inc., et al. v. United Egg Producers, Inc., et al.*  
*1:11-cv-08808 (NDIL)*

November 29, 2023

## Summary of Damages Opinions

1

Kraft paid overcharges of \$18,329,288 between Oct. 2004 and Dec. 2008 to Rose Acre as a result of the supply restrictions in the UEP Certified Program.

2

Kellogg paid overcharges of \$4,605,380 to Rose Acre and Wabash Valley between Oct. 2004 and Dec. 2008 as a result of the supply restrictions in the UEP Certified Program.

3

General Mills paid overcharges of \$1,305,612 to Rose Acre between Oct. 2004 and Dec. 2008 as a result of the supply restrictions in the UEP Certified Program.

4

Nestle paid overcharges of \$1,156,262 to Rose Acre between Oct. 2004 and Dec. 2008 as a result of the supply restrictions in the UEP Certified Program.

## Calculating Overcharge Damages

### STEP 1

How much did the UEP program restrict output relative to what it would have been but for illegal coordination?

### STEP 2

How much did the restriction in output raise Urner Barry (market) prices?

### STEP 3

How much did the increase in market prices change the prices each Plaintiff paid to Rose Acre and Wabash Valley for each egg product?

### STEP 4

Compute the extra amount each Plaintiff paid to Rose Acre and Wabash Valley as a result of the illegal coordination.

# Calculating Overcharge Damages

## STEP 1

How much did the UEP program restrict output relative to what it would have been but for illegal coordination?

## STEP 2

How much did the restriction in output raise Urner Barry (market) prices?

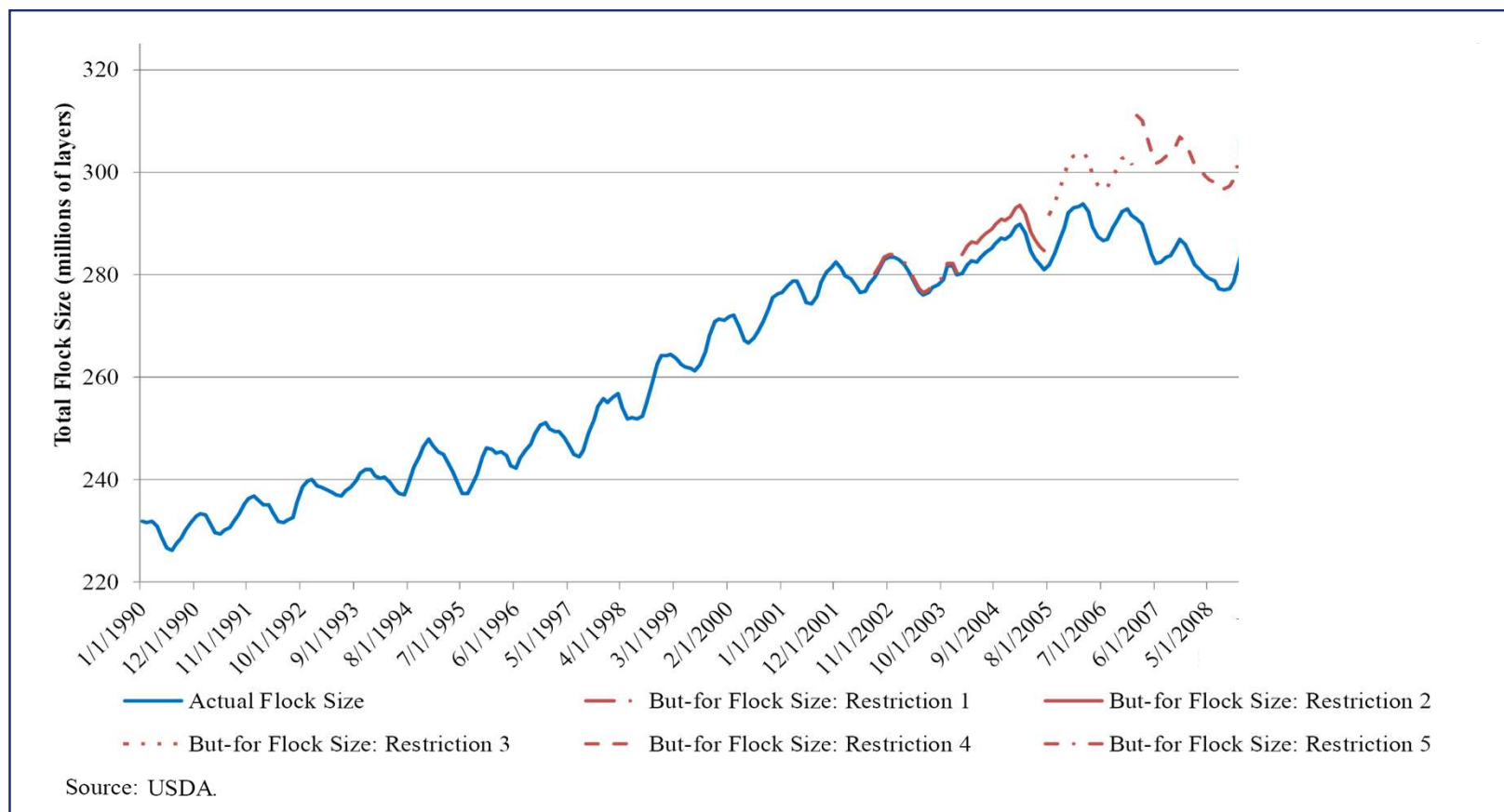
## STEP 3

How much did the increase in market prices change the prices each Plaintiff paid to Rose Acre and Wabash Valley for each egg product?

## STEP 4

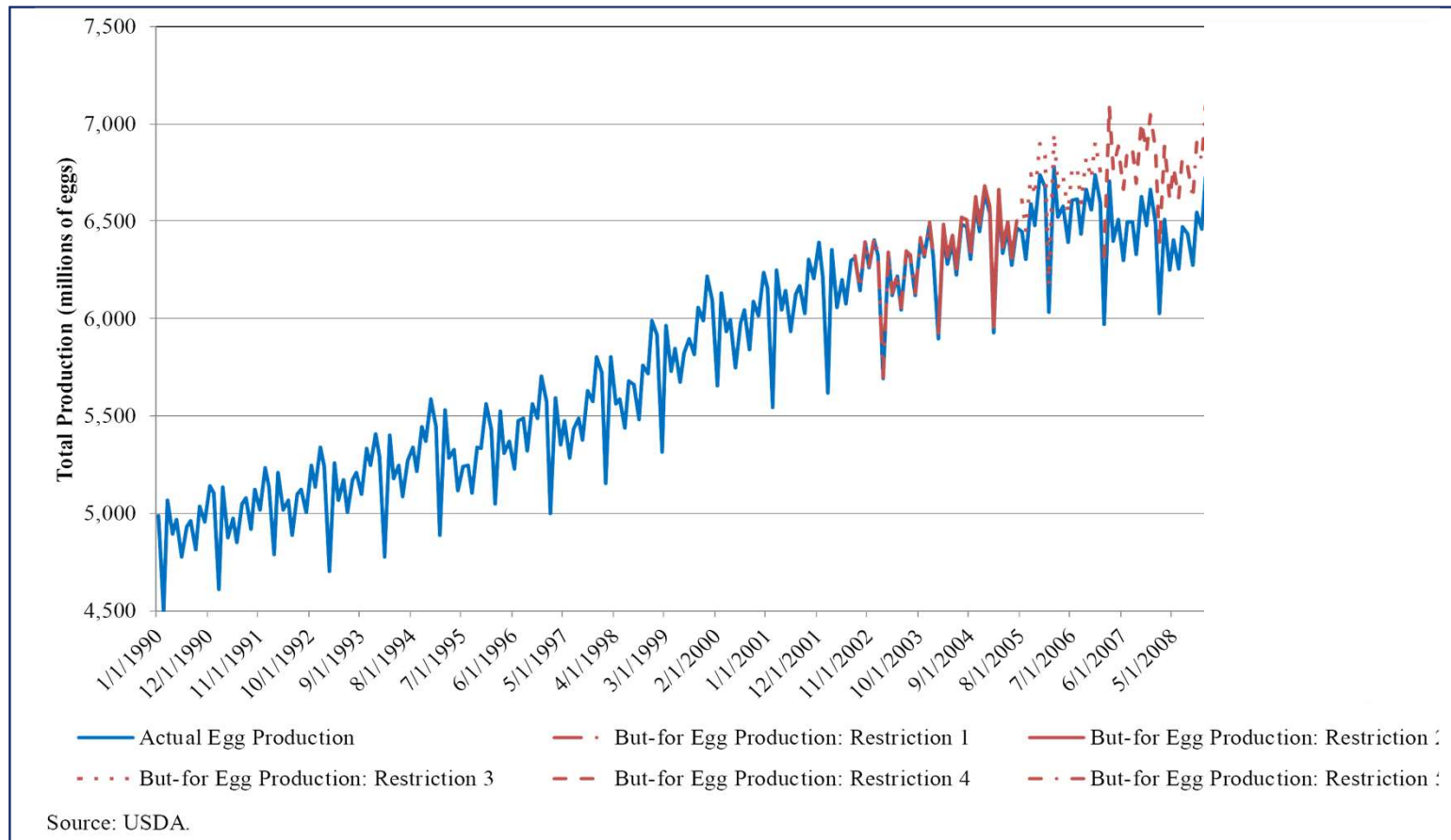
Compute the extra amount each Plaintiff paid to Rose Acre and Wabash Valley as a result of the illegal coordination.

# Actual Flock Size vs. But-For Flock Size: 1990-2008



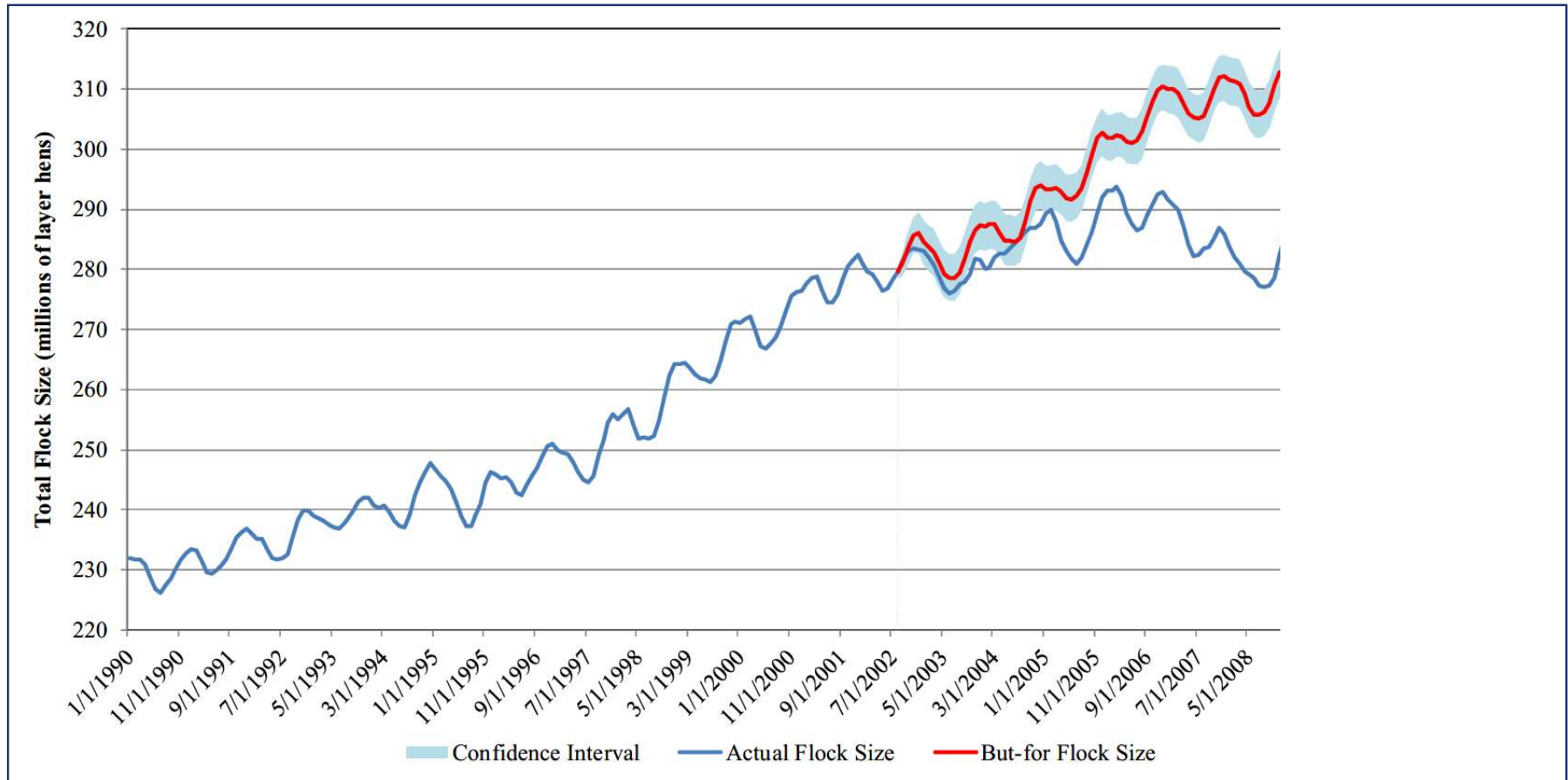
Source: Baye Rep. Ex. 14

# Actual Egg Production vs. But-For Egg Production



Source: Baye Rep. Ex. 17

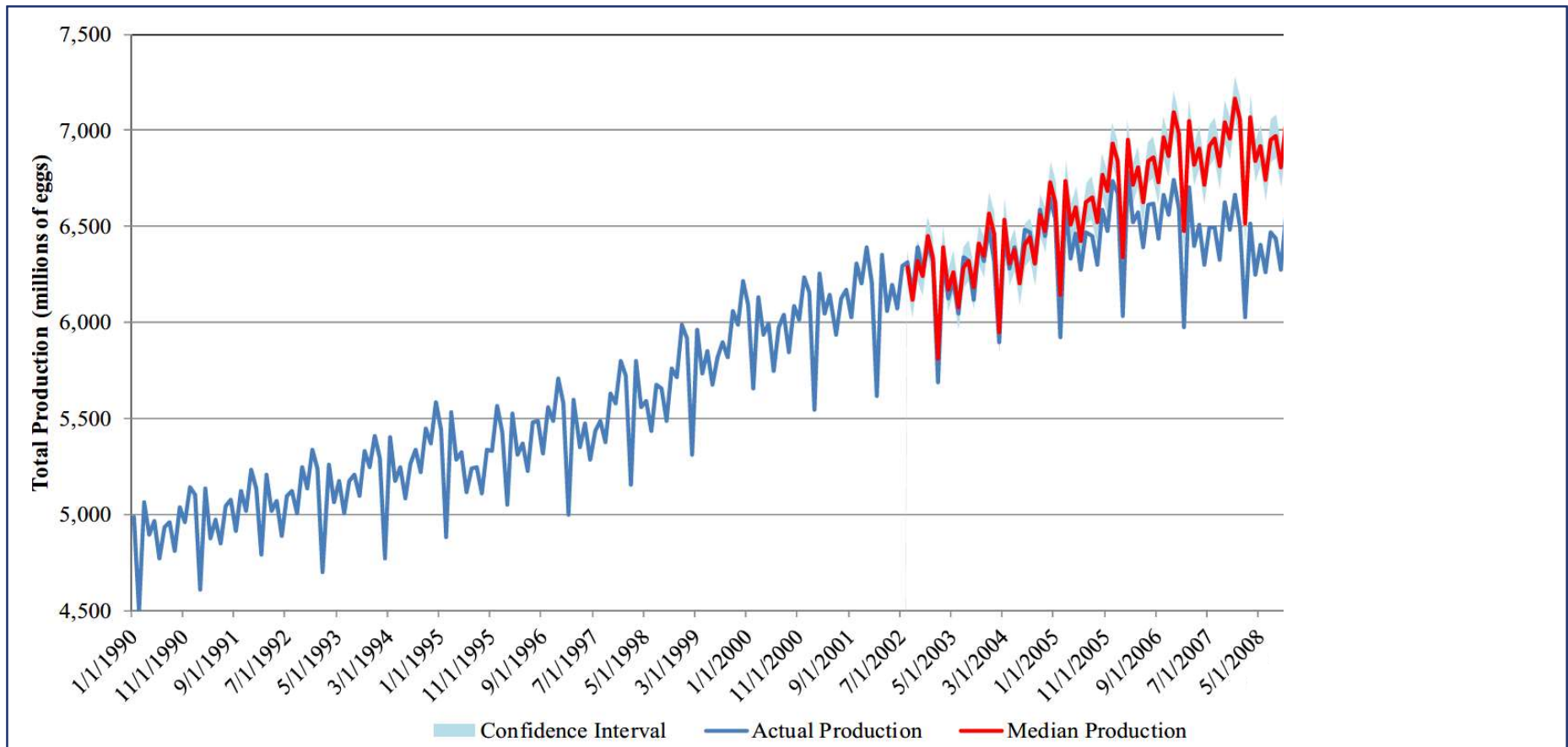
## Actual Flock Size vs. But-For Flock Size 1990-2008 (VAR Model)



Source: Baye Rep. Ex. 18



## Actual Egg Production vs. But-For Egg Production 1990-2008 (VAR Model)



Source: Baye Rep. Ex. 19

## Percent Fewer Eggs Compared to But-For World

Restriction	Effective Date	Minimum Average Space Per Hen		% Reduction of Egg Production	Statistically Significant at 99% Level
		White	Brown		
<b>Restriction 1</b>	Aug. 2002 – Jan. 2004	56 inches	63 inches	0.2%	NO
<b>Restriction 2</b>	Feb. 2004 – July 2005	59 inches	66 inches	0.6%	NO
<b>Restriction 3</b>	Aug. 2005 – Jan. 2007	61 inches	68 inches	2.4%	YES
<b>Restriction 4</b>	Feb. 2007 – July 2008	64 inches	72 inches	5.5%	YES
<b>Restriction 5</b>	Aug. 2008 – Dec. 2012	67 inches	76 inches	5.2%	YES
<b>Backfilling Ban</b>	February 2005			2.1%	YES

Source: Baye Rep. pp. 63-64.

## Calculating Overcharge Damages

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How much did the increase in market prices change the prices each Plaintiff paid to Rose Acre and Wabash Valley for each egg product?

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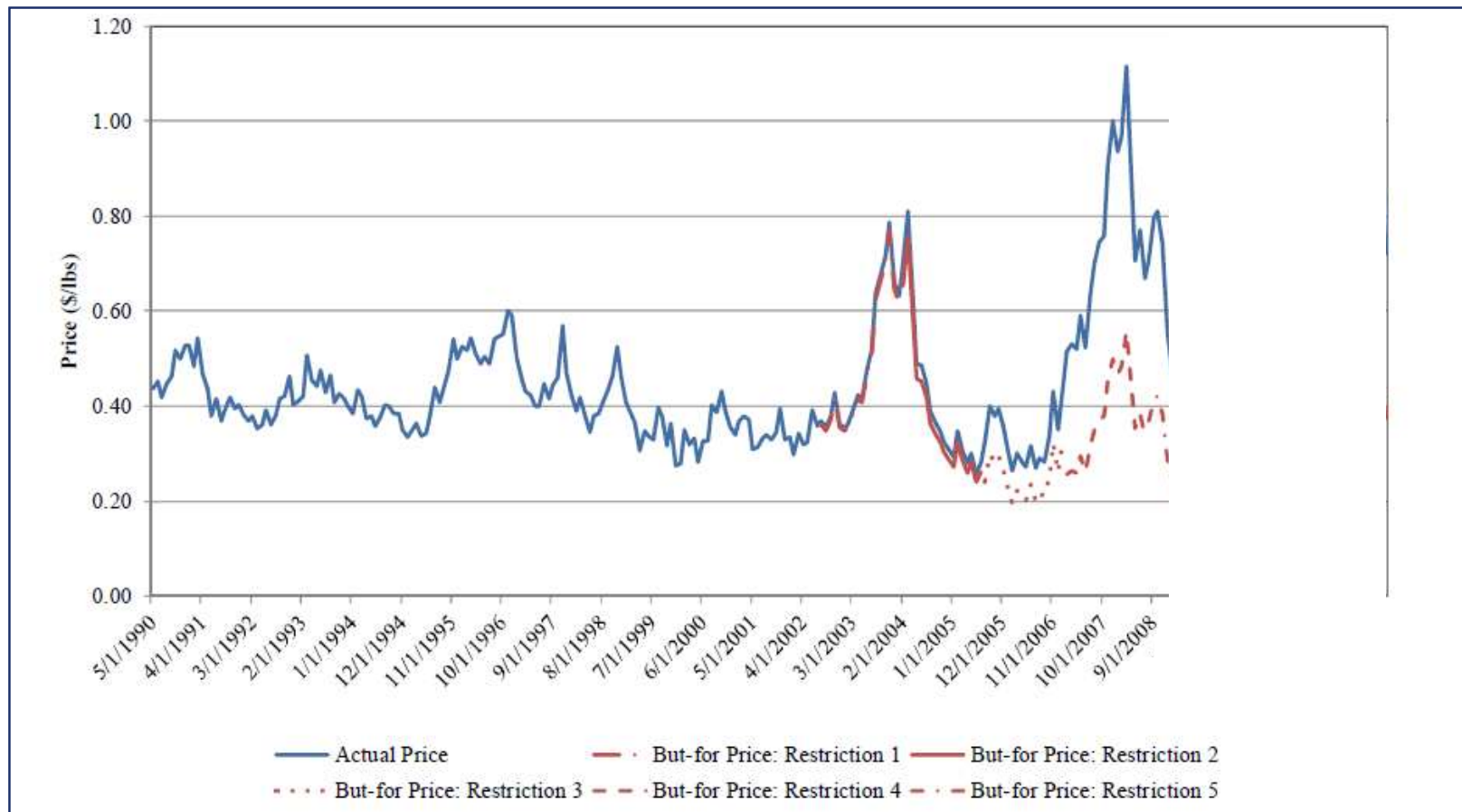
Compute the extra amount each Plaintiff paid to Rose Acre and Wabash Valley as a result of the illegal coordination.

## Range of Increases in 27 Urner Barry Egg Product Prices

	Restriction 3	Restriction 4	Restriction 5	Backfilling
<b>LIQUID EGGS</b>				
Most Inelastic	59.71%	199.06%	181.37%	51.27%
Least Inelastic	21.08%	56.44%	52.59%	18.42%
<b>FROZEN EGGS</b>				
Most Inelastic	39.40%	117.55%	108.34%	34.13%
Least Inelastic	20.11%	53.55%	49.93%	17.59%
<b>DRIED EGGS</b>				
Most Inelastic	36.47%	107.00%	98.79%	31.64%
Least Inelastic	18.91%	49.96%	46.62%	16.54%

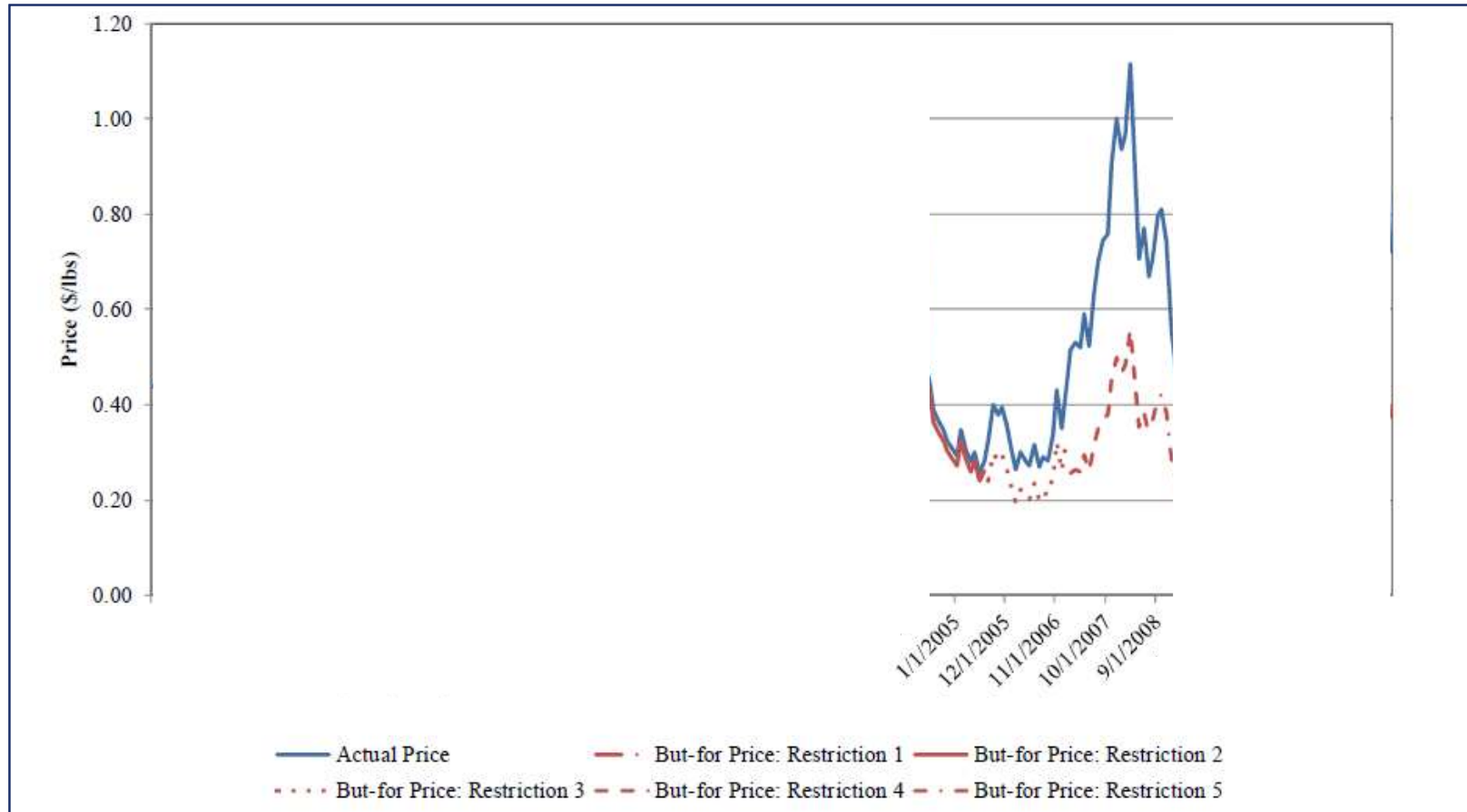
Source: Baye Rep. Ex. 20

## Actual Price v. But-for Price: *UB Liquid Eggs, Whole, Custom Pack, Pasteurized, Standard*



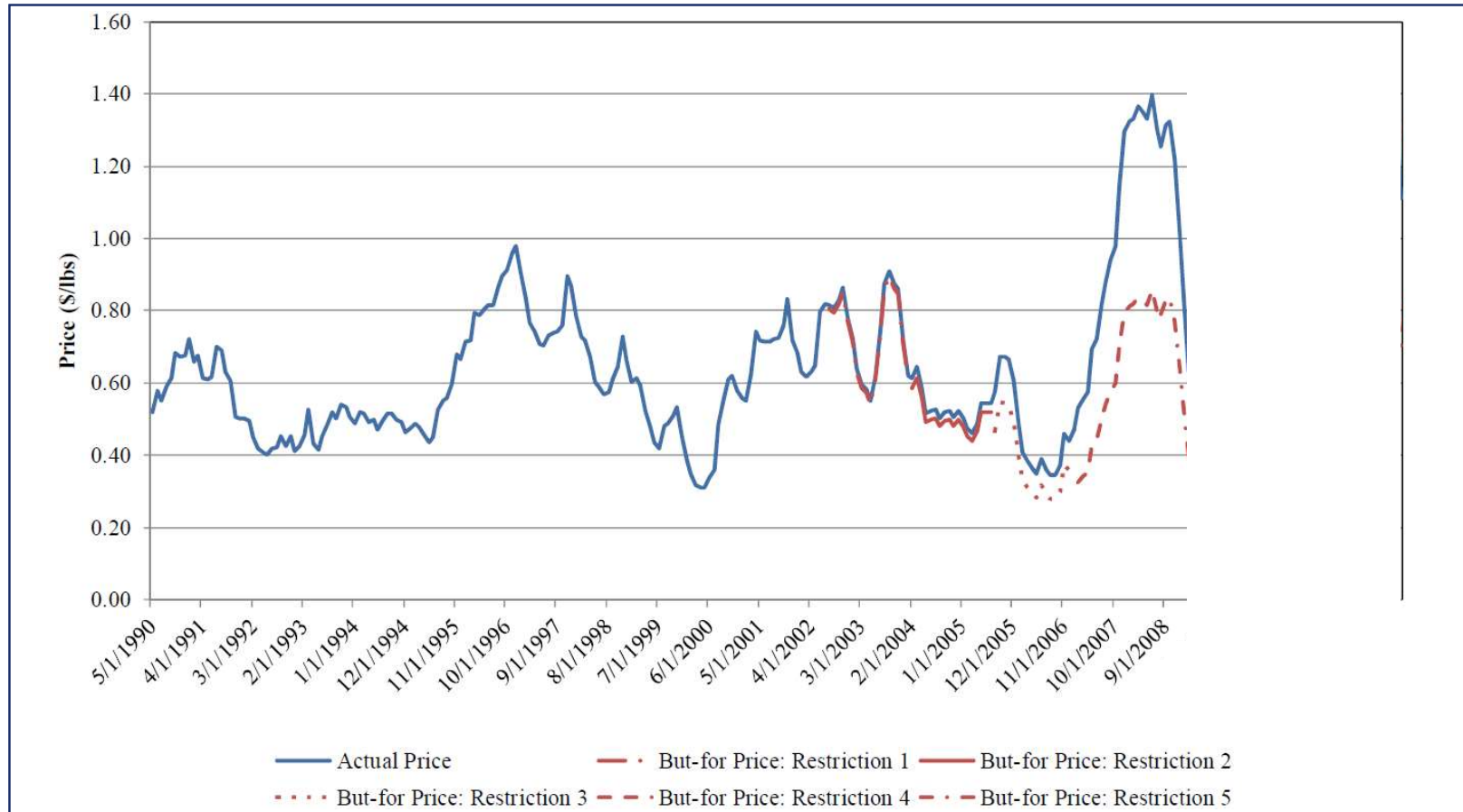
Source: Baye Rep. Appx. 4, pg. 19

## Actual Price v. But-for Price: *UB Liquid Eggs, Whole, Custom Pack, Pasteurized, Standard*



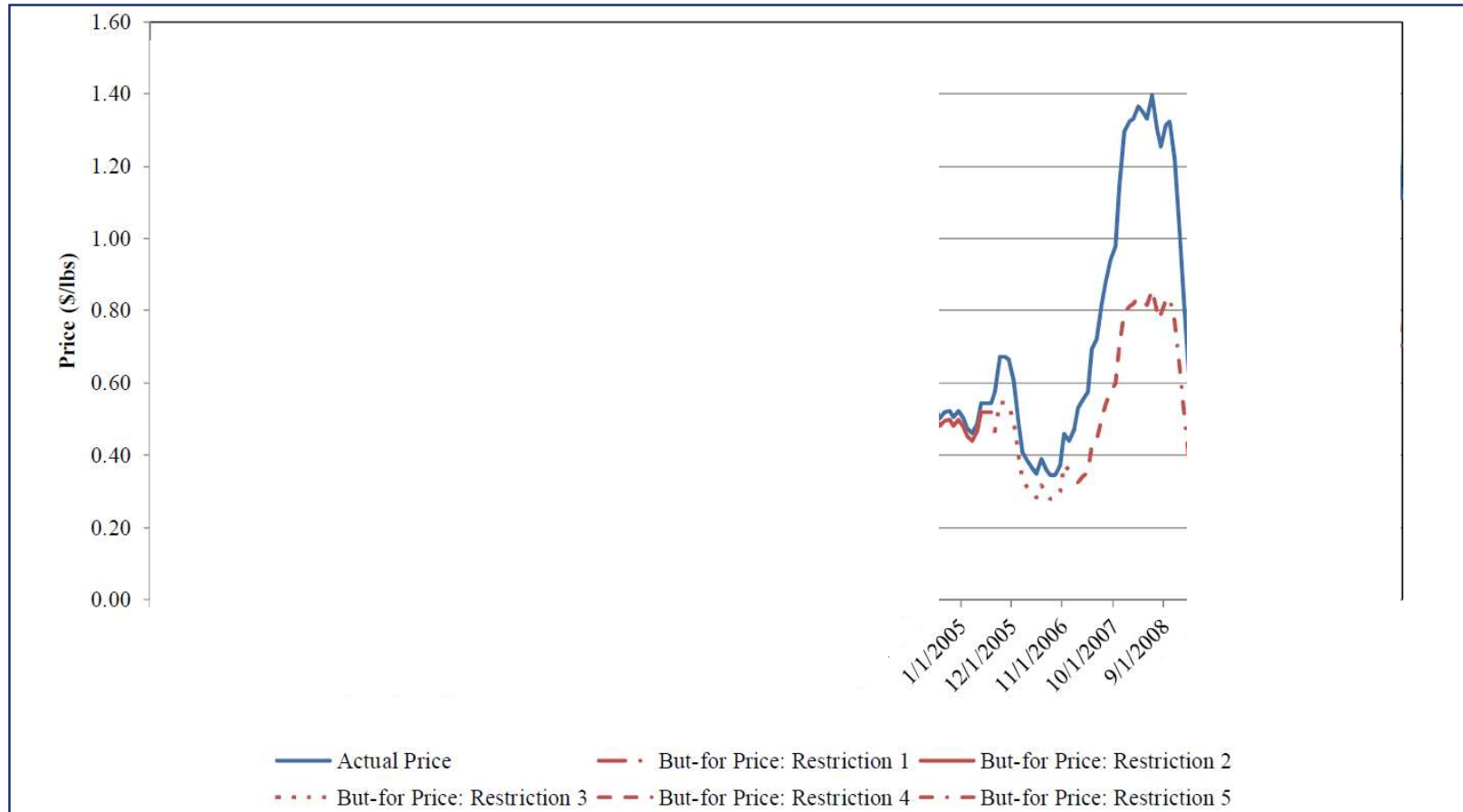
Source: Baye Rep. Appx. 4, pg. 19

## Actual Price v. But-for Price: UB Liquid Eggs, Yolk 43% Solids, Custom Pack, Pasteurized, Standard



Source: Baye Rep. Appx. 4, pg. 21

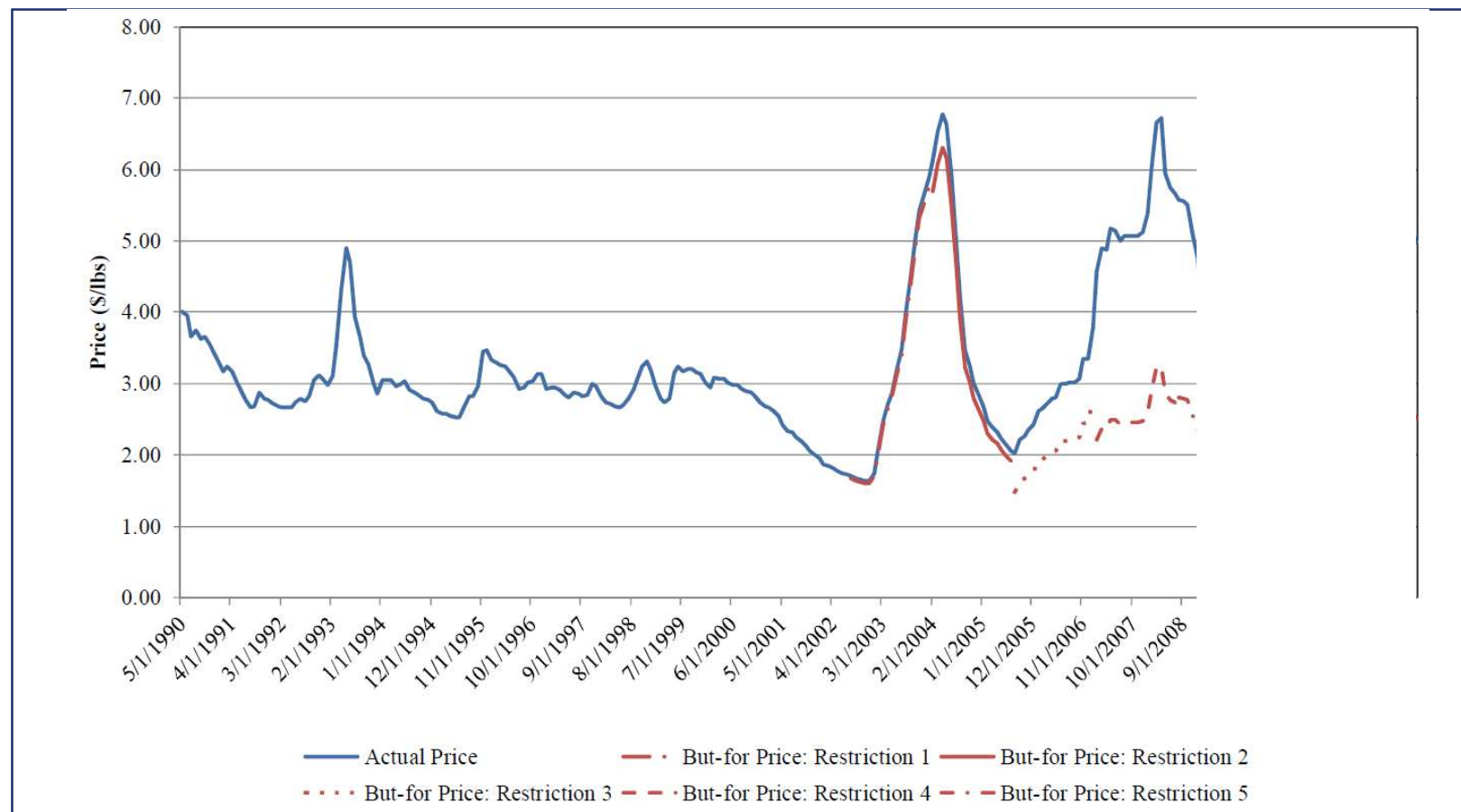
## Actual Price v. But-for Price: UB Liquid Eggs, Yolk 43% Solids, Custom Pack, Pasteurized, Standard



Source: Baye Rep. Appx. 4, pg. 21

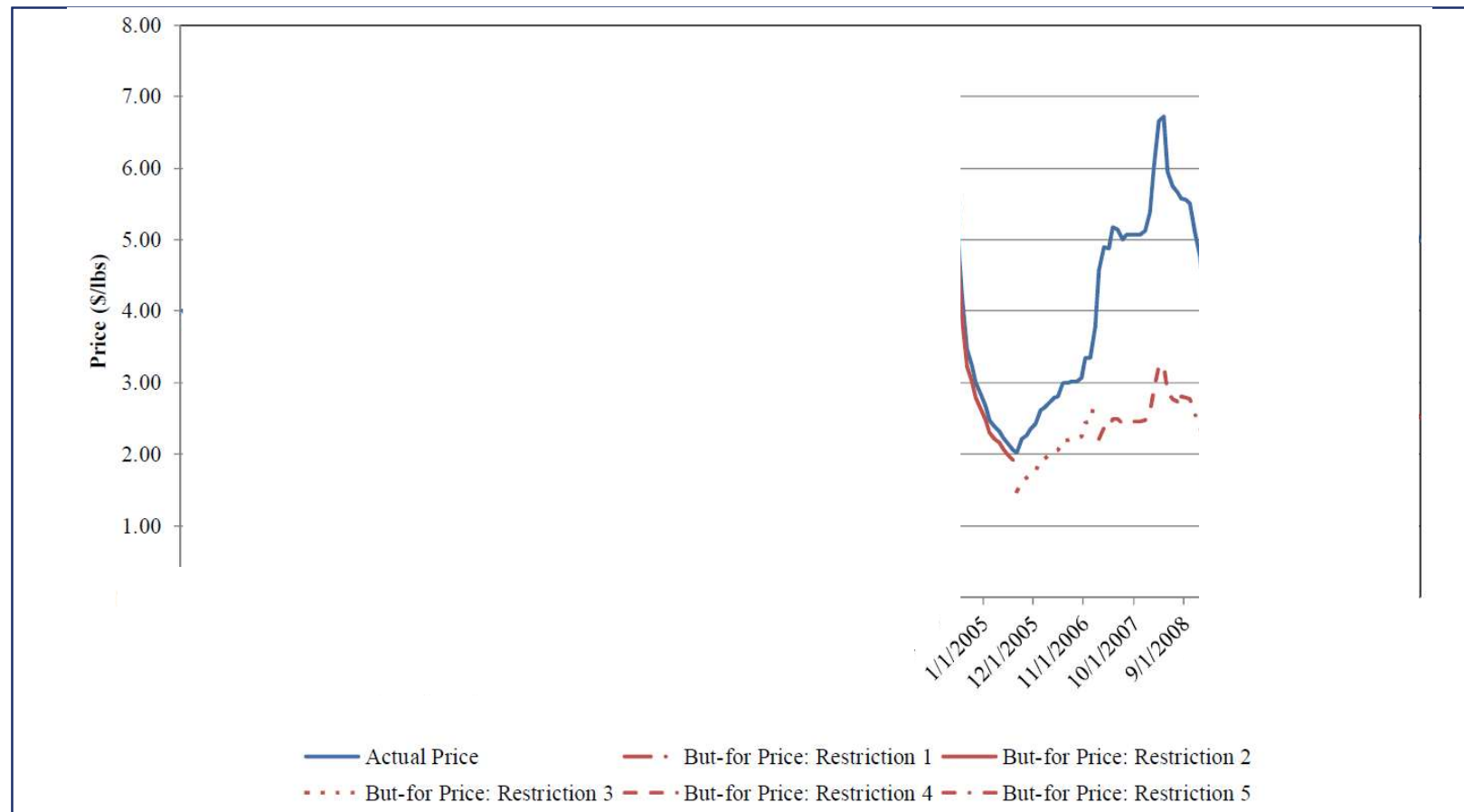


## Actual Price v. But-for Price: *UB Egg Solids, Albumen, Spray (TL)*



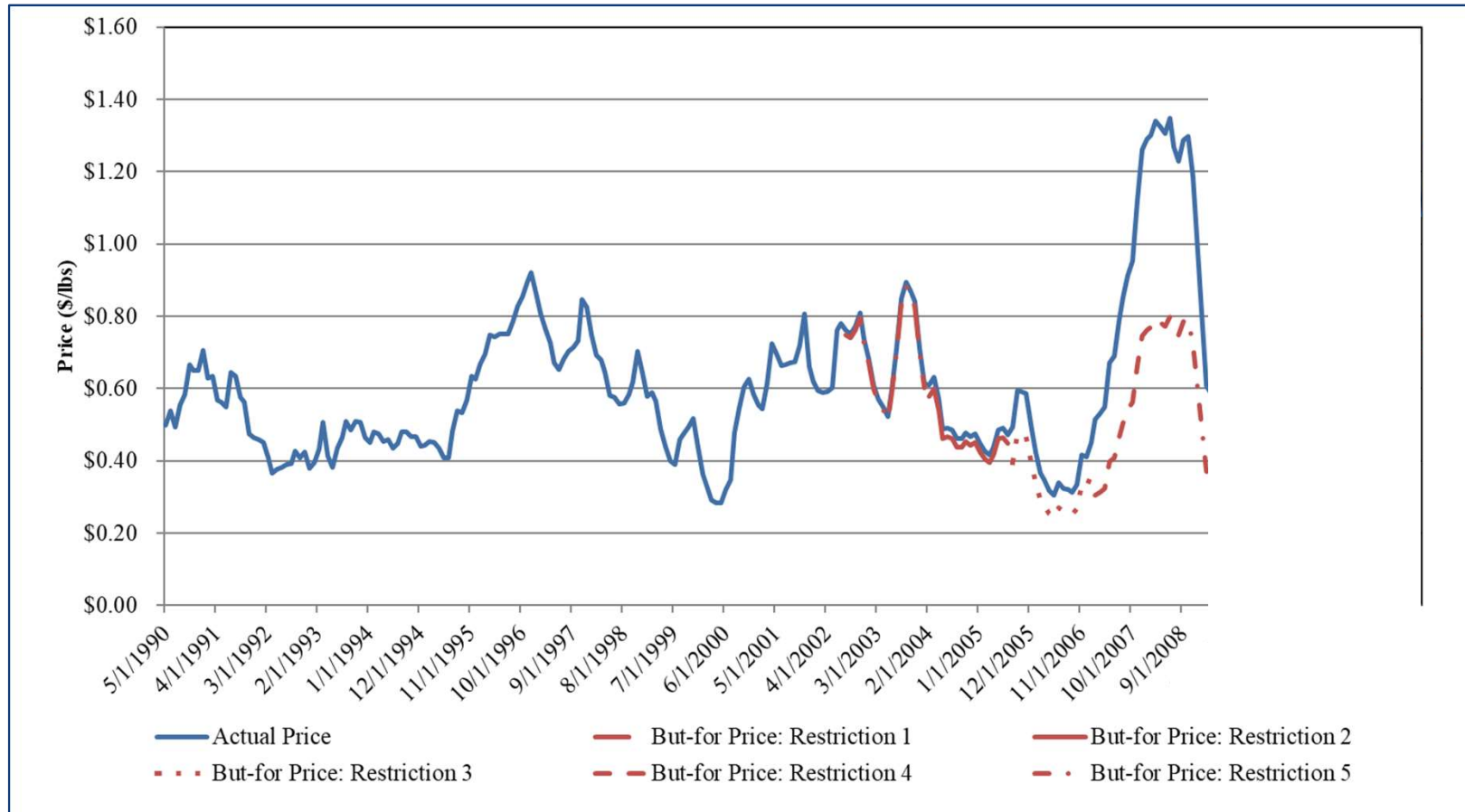
Source: Baye Rep. Appx. 4, pg. 2

## Actual Price v. But-for Price: *UB Egg Solids, Albumen, Spray (TL)*



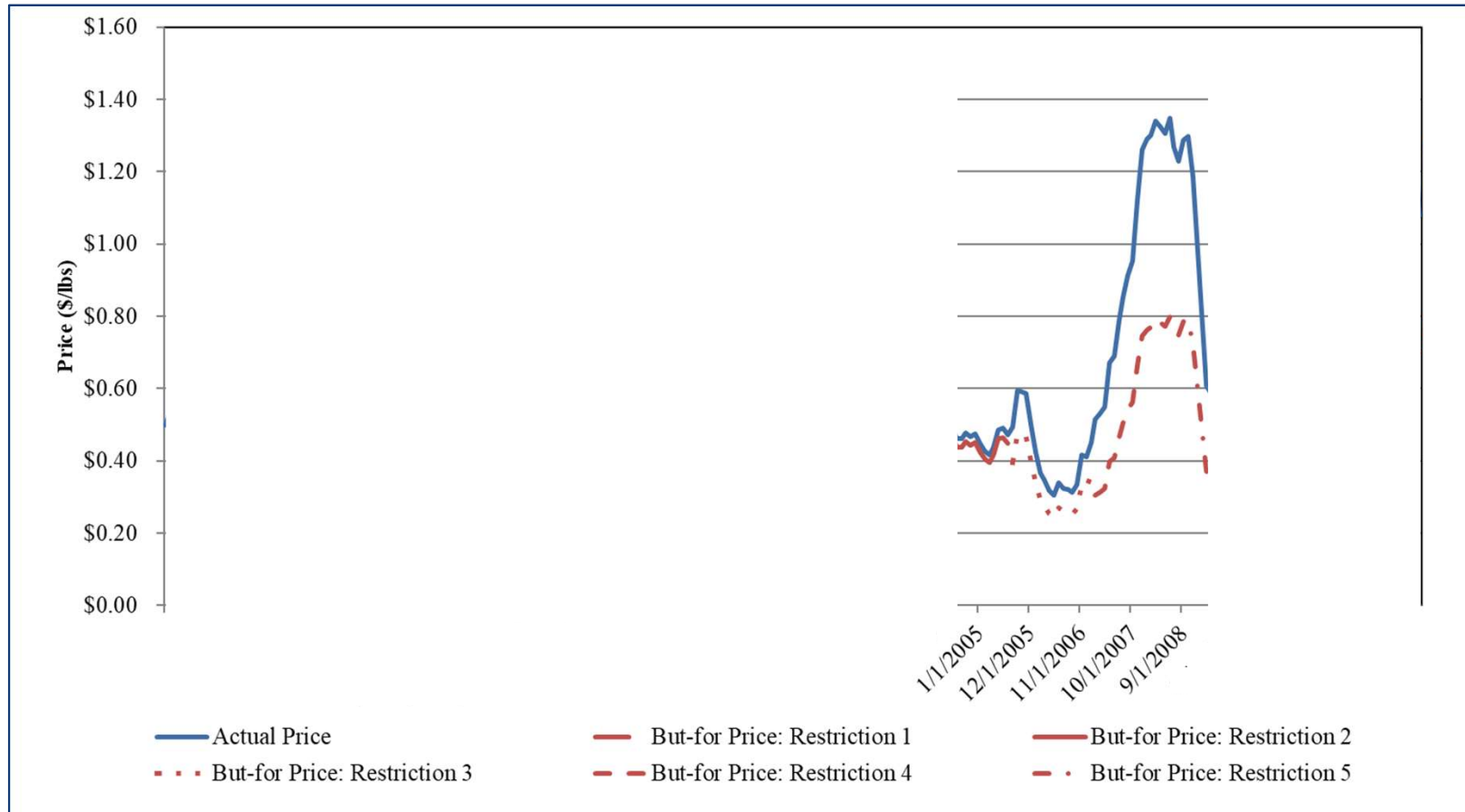
Source: Baye Rep. Appx. 4, pg. 2

## Actual Price v. But-for Price: UB Liquid Eggs, Yolk, Salt 43% Solids, 10% Salt, Standard



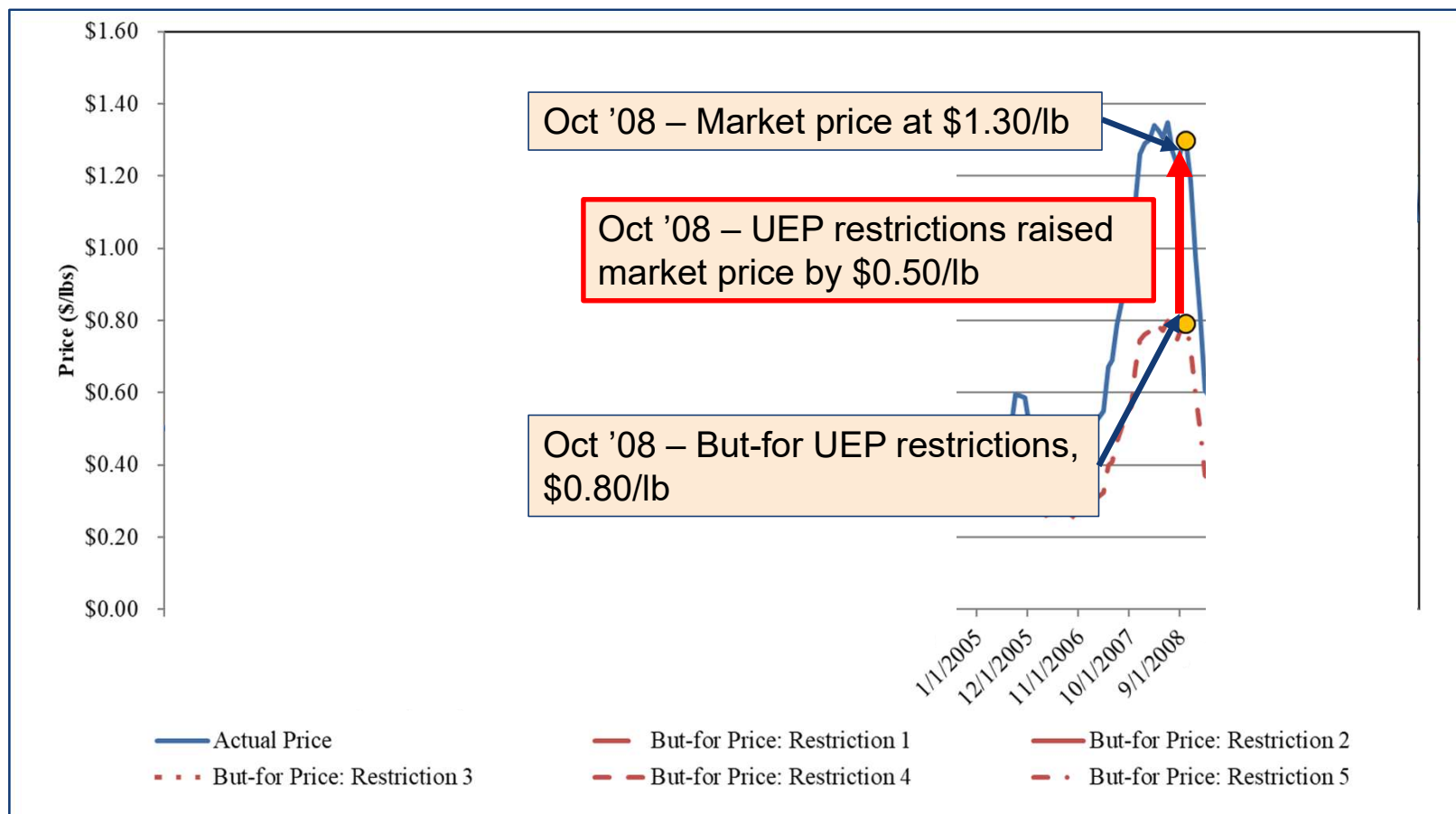
Source: Baye Rep. Appx. 4, pg. 22

## Actual Price v. But-for Price: UB Liquid Eggs, Yolk, Salt 43% Solids, 10% Salt, Standard



Source: Baye Rep. Appx. 4, pg. 22

## Effect on Market Prices: UB Liquid Eggs, Yolk, Salt 43% Solids, 10% Salt, Standard



Source: Baye Rep. Appx. 4, pg. 22

## Calculating Overcharge Damages

### STEP 1

How much did the UEP program restrict output relative to what it would have been but for illegal coordination?

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How much did the restriction in output raise Urner Barry (market) prices?

### STEP 3

How much did the increase in market prices change the prices each Plaintiff paid to Rose Acre and Wabash Valley for each egg product?

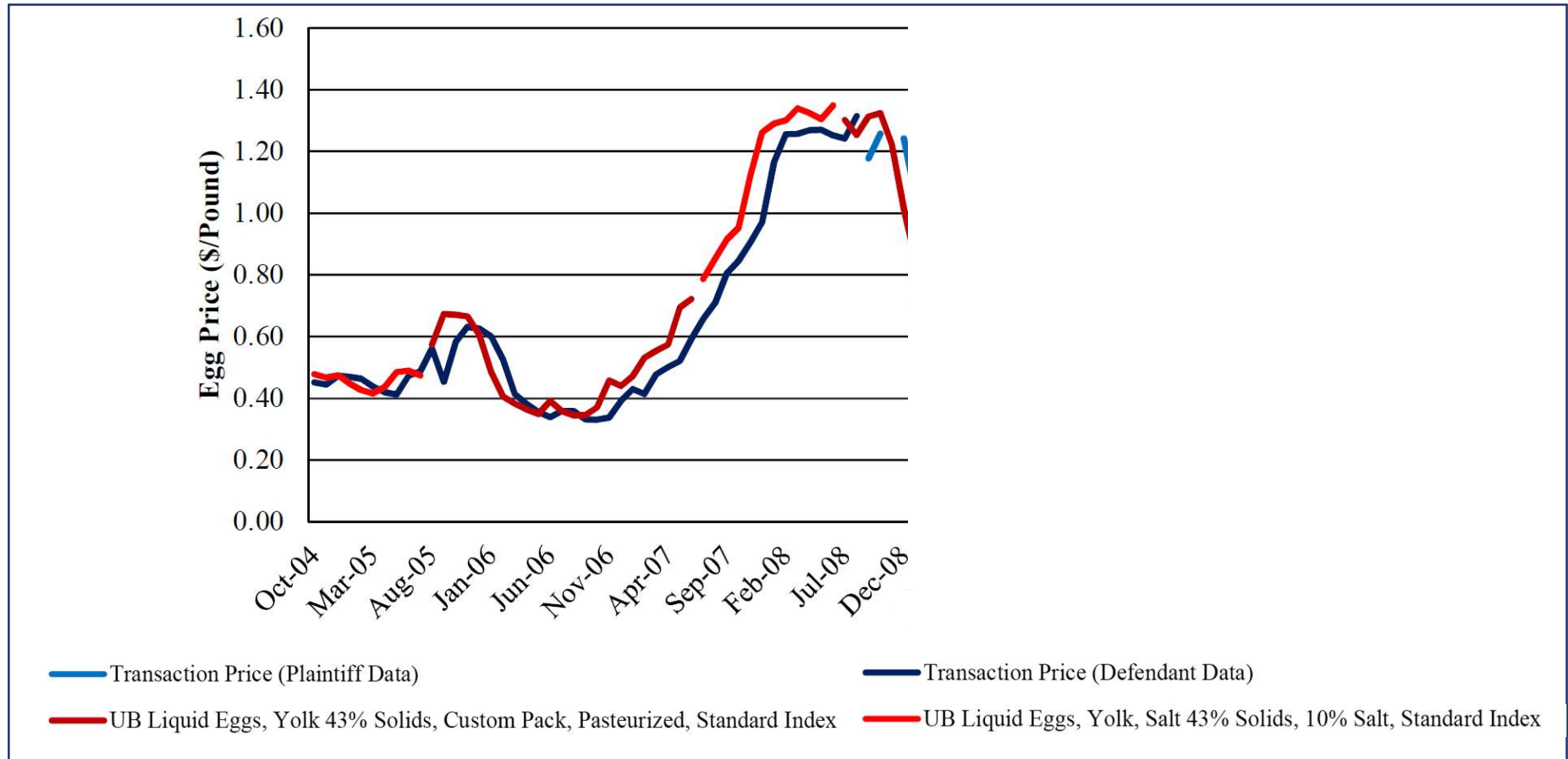
### STEP 4

Compute the extra amount each Plaintiff paid to Rose Acre and Wabash Valley as a result of the illegal coordination.

## Transactions and Products Analyzed

- Thousands of transaction records
- Fourteen plaintiff/vendor/product combinations
- Approximately 90% of overcharges are from four products

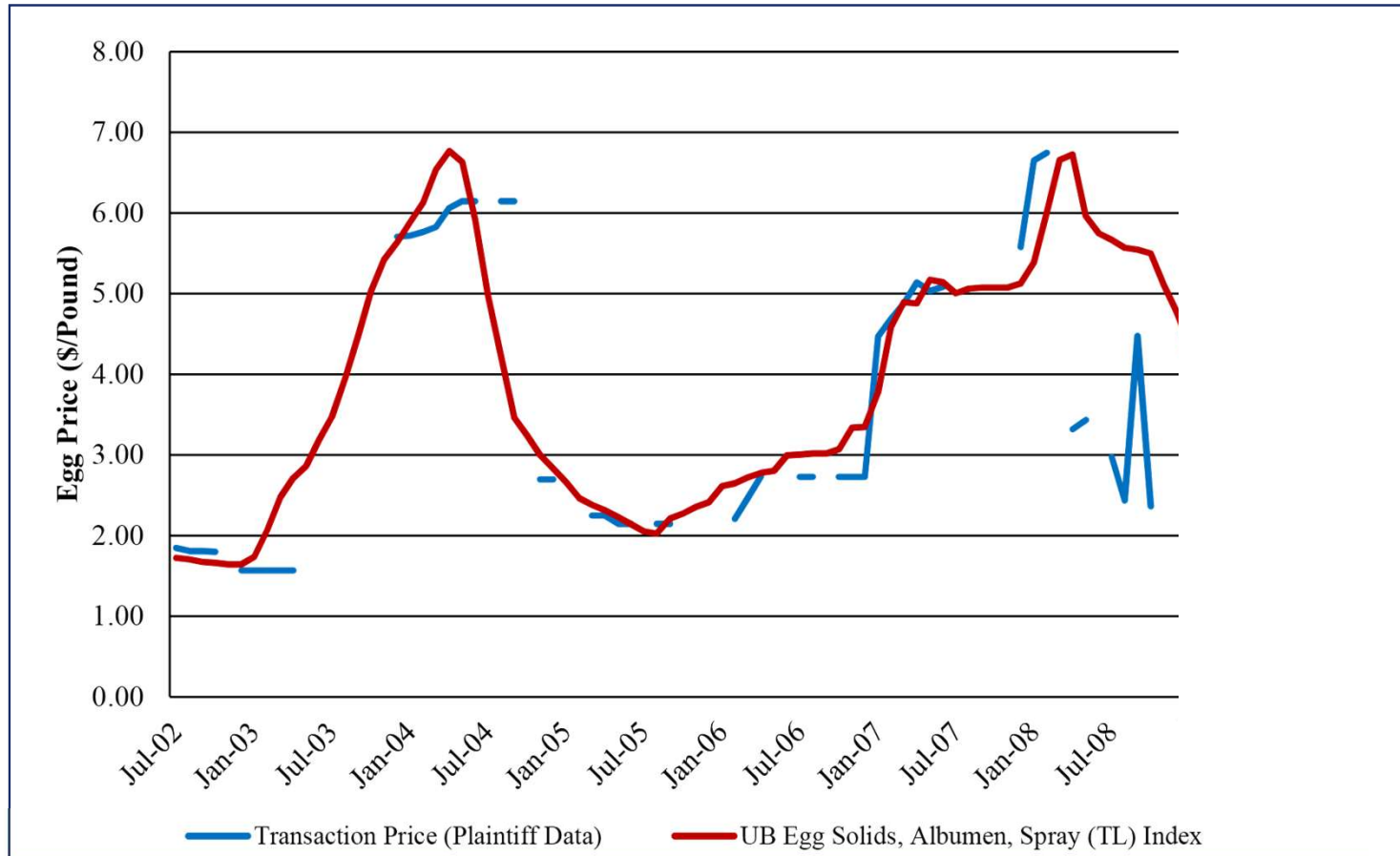
# Prices Kraft Paid to Rose Acre for Liquid Yolk Salt Track Urner Barry Prices



Source: Baye Rep. Appx. 3, pg. 31

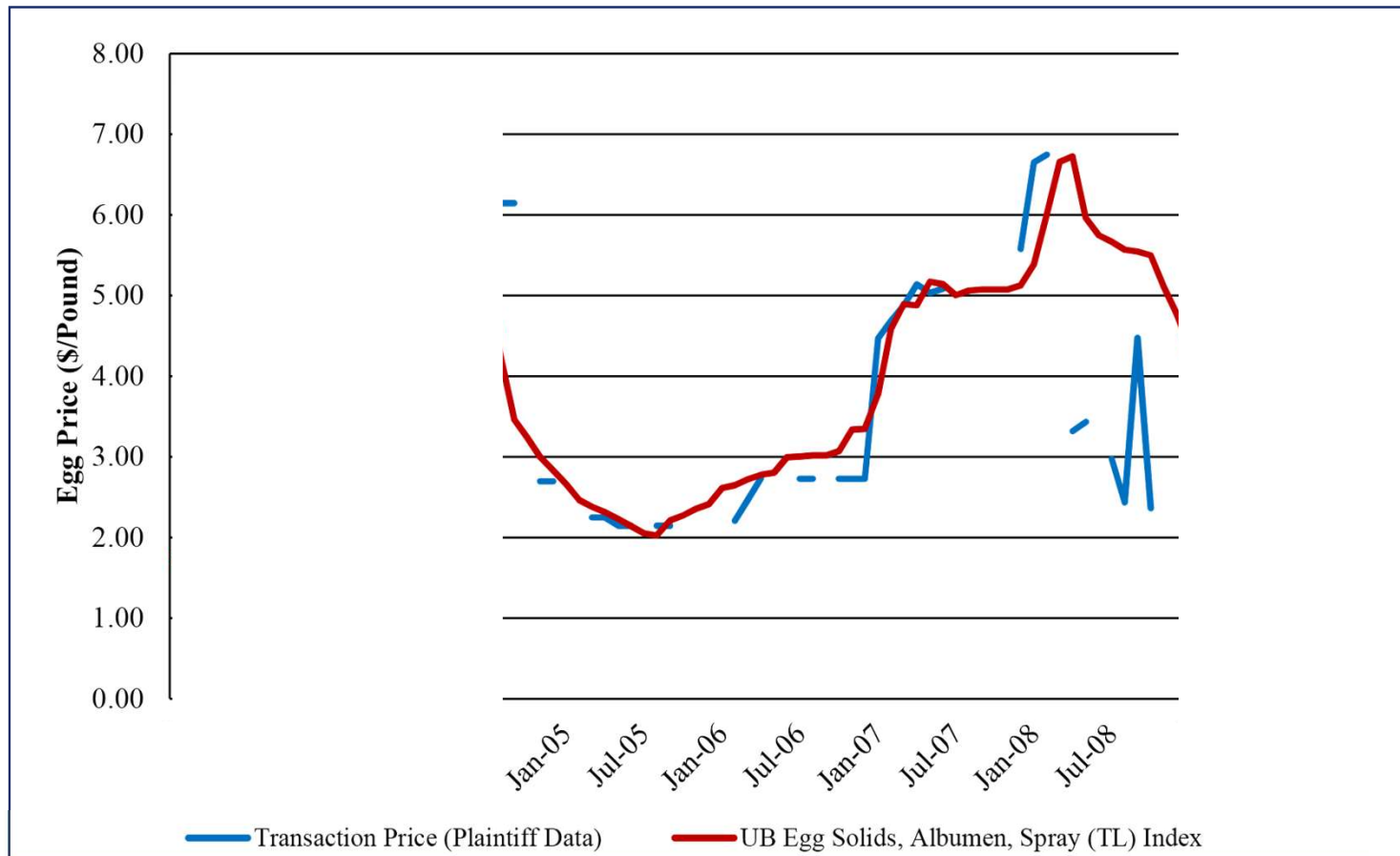


## Prices General Mills Paid Rose Acre for Dried Whites Track Urner Barry Prices



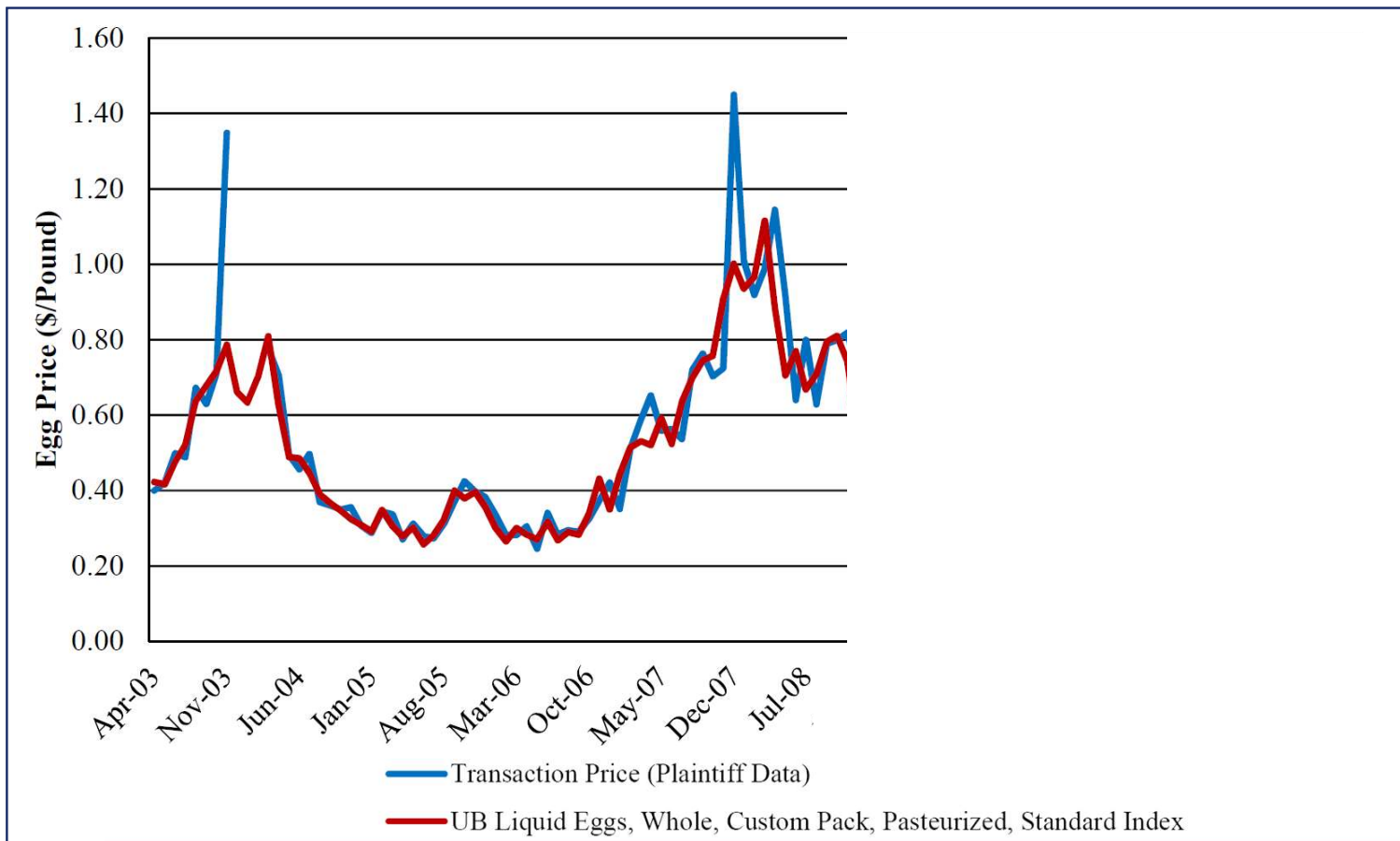
Source: Baye Rep. Appx. 3, pg. 15

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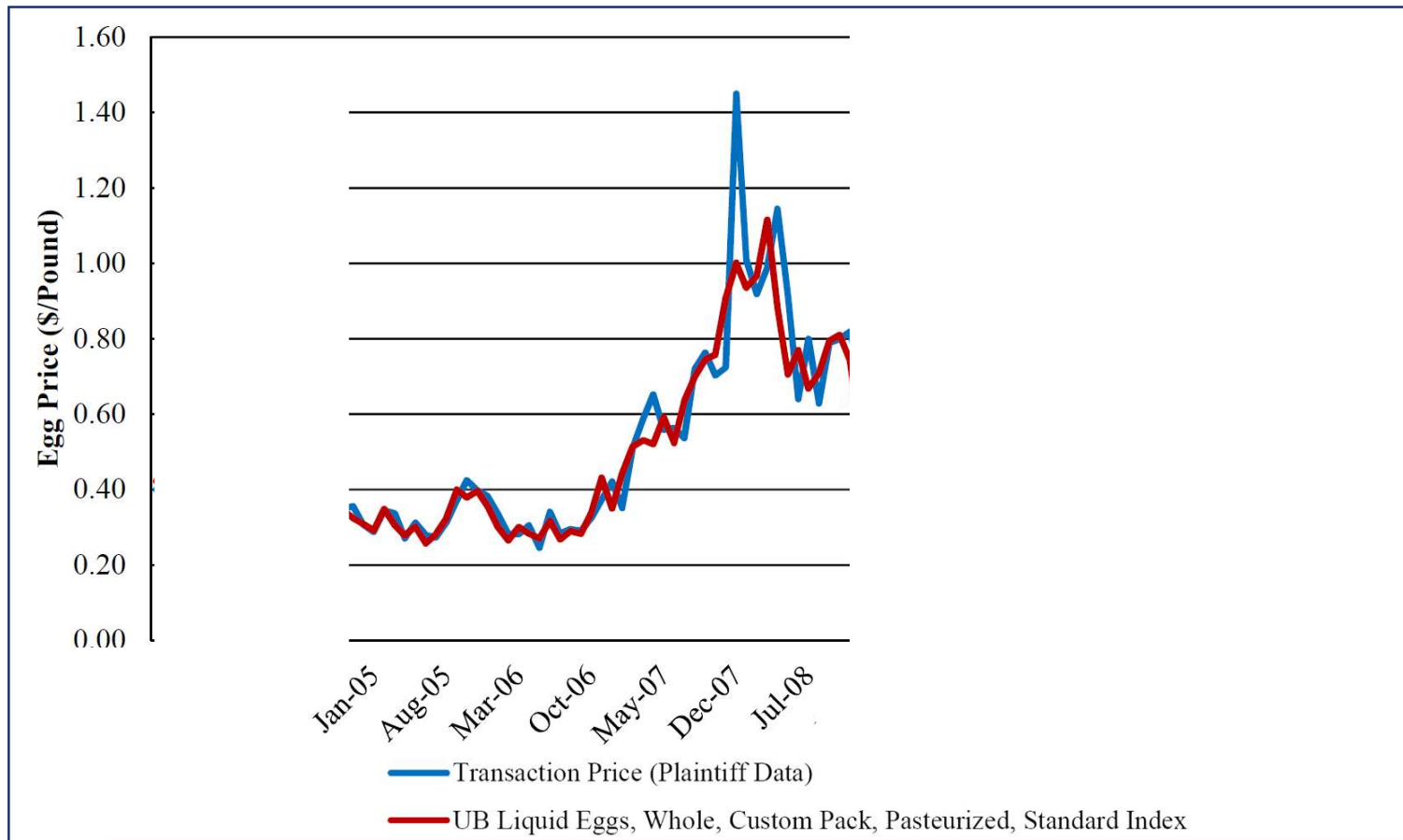
Source: Baye Rep. Appx. 3, pg. 15

## Prices Kellogg Paid to Wabash Valley for Liquid Whole Track Urner Barry Prices



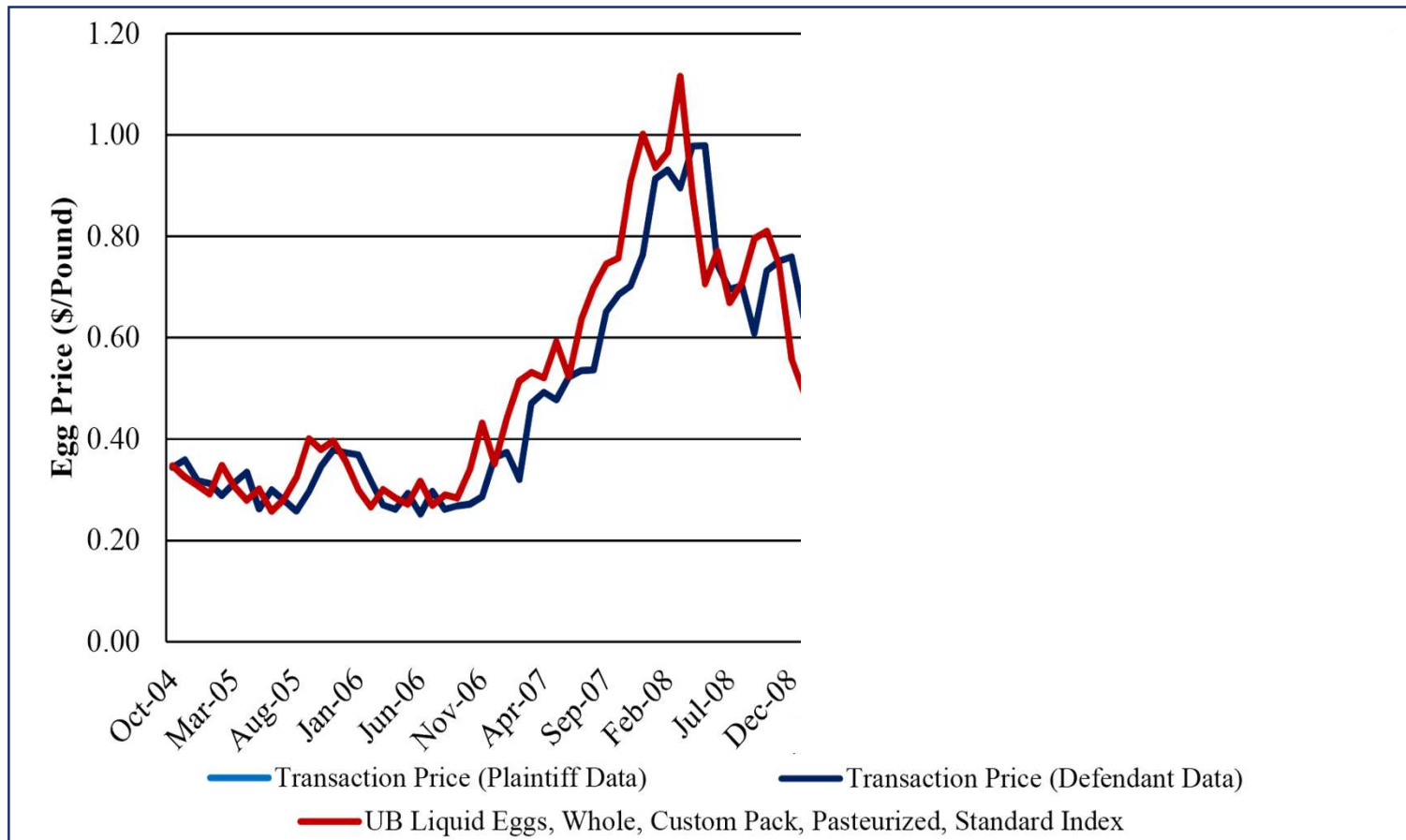
Source: Baye Rep. Appx. 3, pg. 30

## Prices Kellogg Paid to Wabash Valley for Liquid Whole Track Urner Barry Prices



Source: Baye Rep. Appx. 3, pg. 30

## Prices Kraft Paid to Rose Acre for Liquid Whole Salt Track Urner Barry Prices



Source: Baye Rep. Appx. 3, pg. 32

## Calculating Overcharge Damages

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### STEP 2

How much did the restriction in output raise Urner Barry (market) prices?

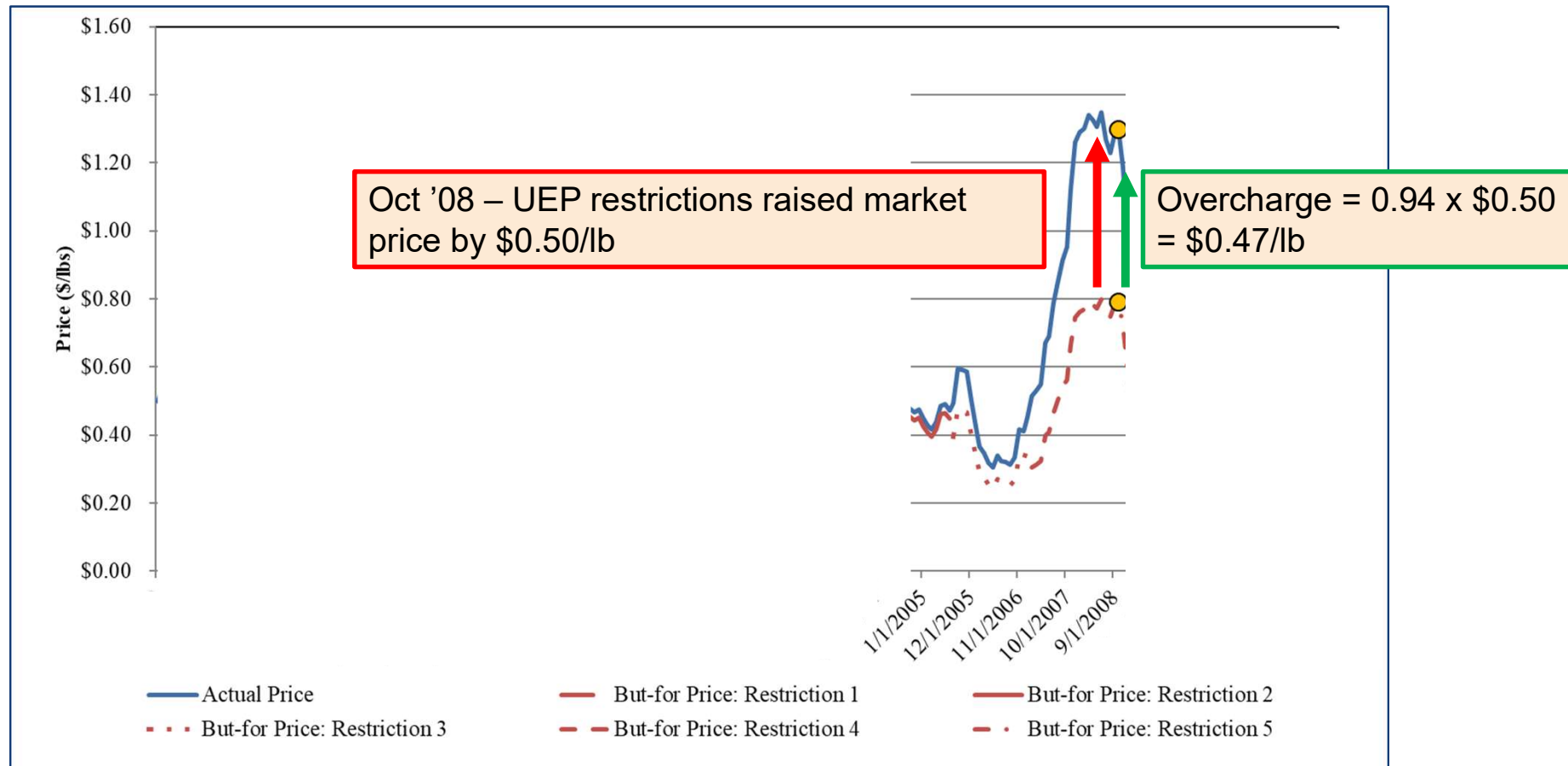
### STEP 3

How much did the increase in market prices change the prices each Plaintiff paid to Rose Acre and Wabash Valley for each egg product?

### STEP 4

Compute the extra amount each Plaintiff paid to Rose Acre and Wabash Valley as a result of the illegal coordination.

# Compute Overcharge for Kraft Oct. 2008 Purchases from Rose Acre: *UB Liquid Eggs, Yolk, Salt 43% Solids, 10% Salt, Standard*



Source: Baye Rep. Appx. 4, pg. 22

## Plaintiffs' Total Purchases and Overcharges (Main Specification Oct. 2004 through Dec. 2008)

	<b>Purchases from Rose Acre and Wabash Valley</b>	<b>Overcharges</b>
<b>Kraft</b>	<b>\$70,803,605</b>	<b>\$18,329,288</b>
<b>Kellogg</b>	<b>\$15,088,100</b>	<b>\$4,605,380</b>
<b>General Mills</b>	<b>\$3,948,967</b>	<b>\$1,305,612</b>
<b>Nestle</b>	<b>\$6,577,046</b>	<b>\$1,156,262</b>
<b>Total:</b>	<b>\$96,417,718</b>	<b>\$25,396,542</b>

Source: Baye Rep. Appx. 6



## Plaintiffs' Total Purchases and Overcharges (Backfilling Ban Specification Oct. 2004 through Dec. 2008)

	Purchases from Rose Acre and Wabash Valley	Overcharges
<b>Kraft</b>	<b>\$70,803,605</b>	<b>\$10,548,781</b>
<b>Kellogg</b>	<b>\$15,088,100</b>	<b>\$2,497,923</b>
<b>General Mills</b>	<b>\$3,948,967</b>	<b>\$832,994</b>
<b>Nestle</b>	<b>\$6,577,046</b>	<b>\$521,718</b>
<b>Total:</b>	<b>\$96,417,718</b>	<b>\$14,401,416</b>

Source: Baye Rep. Appx. 6

## The Estimates of Overcharge Damages Are Conservative

- Excludes damages from exports and short-term measures.
- Estimates would be larger using a confidence level below 99%.
- Estimates are based on the main specification, which showed *smaller* output reduction than other specifications and the VAR model.
- Estimates are larger using price effects from documentary record.
- The model uses the product associated with the *most elastic* demand (meaning price goes up *the least* when supply goes down) wherever the product purchased/priced is ambiguous.
- The adjustment factor is capped at one for purposes of calculating overcharges.

## Plaintiffs' Total Purchases and Overcharges (Main Specification Oct. 2004 through Dec. 2008)

	Purchases from Rose Acre and Wabash Valley	Overcharges
<b>Kraft</b>	<b>\$70,803,605</b>	<b>\$18,329,288</b>
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Source: Baye Rep. Appx. 6